



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

December 31, 1979

Mr. Richard Zazueta, Assistant Director
Division of Employment and
Rehabilitation Services
Department of Economic Security
Post Office Box 6123
Phoenix, AZ 85005

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Re: I79-311 (R79-323)

Dear Mr. Zazueta:

This letter is in response to your request for an opinion regarding the individual or collective liability of members of the Private Industry Council. This council was established by the Department of Economic Security pursuant to 20 C.F.R. 679, "Private sector initiative program for the economically disadvantaged under the Comprehensive Employment and Training Act," 29 U.S.C. 801 et seq. This regulation requires a state to establish a Private Industry Council in order to receive funds under Title VII of the Act. The regulation also sets out the duties and scope of authority for such councils. The Department of Economic Security is authorized by A.R.S. § 41-1954.A.1(f) to administer manpower planning services, including the furtherance of programs under the Comprehensive Employment and Training Act.

The issue of the potential liability of non-paid agents of the state, such as the members of this council, was discussed in two recent opinions of this office, Ariz.Att'yGen.Op. Nos. I79-234 and I79-235. We refer you to those opinions, attached for your convenience, for the answer to your question.

Mr. Richard Zazueta
December 31, 1979
Page 2

To summarize our conclusions therein, if members are acting in good faith within the scope of statutory authority, including regulations promulgated pursuant to that authority, they will not be held liable for injuries or damages resulting from such acts or omissions as provided by A.R.S. § 41-621, subsections G and K.

Sincerely,



BOB CORBIN
Attorney General

BC/mm



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

September 12 , 1979

Brian Lensink, Assistant Director
Division of Developmental Disabilities
& Mental Retardation Services
Department of Economic Security
P.O. Box 6760
Phoenix, Arizona 85005

Re: I79- 234 (R79-149)

Dear Mr. Lensink:

In your memorandum of May 1, 1979 you requested our opinion regarding the liability of non-paid Human and Legal Rights Committee members for decisions made within the scope of their statutory duties. You have also indicated that the members wish to know if our office will defend them in the event they are sued as a result of performance of those duties.

In Atty.Gen.Op. No. 77-236 we said that authorized non-paid agents who are acting within the course and scope of their authorization are covered under the State's self-insurance program pursuant to A.R.S. §§ 41-621 et seq. Thus, whether or not there is payment for services is not a controlling factor for coverage.

The provisions of that article relevant to your question are:

G. A state officer, agent or employee, except as otherwise provided by statute, is not personally liable for an injury or damage resulting from his act or omission in a public official capacity where the act or omission was the result of the exercise of the discretion vested in him if the exercise of the discretion was done in good faith without wanton disregard of his statutory duties.

* * *

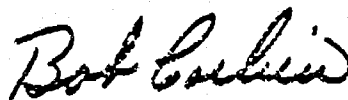
Brian Lensink
September 12, 1979
Page 2

K. If self-insurance coverage is determined to exist,^{1/} the attorney general, with funds provided by the department of administration in accordance with subsection B of this section shall provide for the defense, either through its office or by appointment of outside legal counsel, of the state and its departments, agencies, boards and commissions and all officers, agents and employees thereof for or on account of their acts or omissions covered pursuant to this chapter.

In order to avoid personal liability and to be entitled to representation by the Attorney General, an agent must have performed an act or omission pursuant to statutory authorization and must have acted in good faith. Committee members are authorized to act under the statutory authority of A.R.S. § 36-554.C(6) and the regulations being promulgated pursuant thereto.

Thus, it is our conclusion that non-paid Committee members are not personally liable for actions taken in good faith pursuant to their statutory authorization and that the Office of the Attorney General will defend Committee members in suits relating to the discharge of statutory duties.

Sincerely,



BOB CORBIN
Attorney General

BC/mm

1. Self-insurance coverage now exists for all state officers, agents and employees with respect to tort liability.



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert H. Corbin

September 13, 1979

J. G. Yount, President
Arizona State Board of
Dental Examiners
Occupational Licensing Building
1645 West Jefferson
Phoenix, Arizona 85007

Re: I79-235 (R79-226)

Dear Dr. Yount:

This letter is in response to your request for an opinion from this Office concerning the following questions:


1. Are complaint review committee members appointed by the Arizona State Dental Board to perform specified acts, covered under the State's self-insurance program?
2. Are said members entitled to representation by the Office of the Attorney General in the performance of authorized acts?

The issues of whether non-paid agents are covered under the State's self-insurance program and are entitled to representation by the Attorney General were discussed in a recent opinion of this Office, Atty.Gen.Op. No. I79-234. We refer you to that opinion, attached for your convenience, for the answer to your questions.

J. G. Yount
September 13, 1979
Page 2

To summarize our conclusions therein, if members are acting in good faith within the scope of statutory authority,^{1/} they will not be held liable for injuries or damages resulting from such acts or omissions as provided by A.R.S. § 41-621(G) and (K).

Sincerely,



BOB CORBIN
Attorney General

BC/mm
Enclosure

1. We note that the Board is specifically authorized to investigate charges of misconduct on the part of dental licensees, under the provisions of A.R.S. §§ 32-1207.A.8 and 32-1263.B. In addition, the Board has the power to hire consultants to assist in the performance of Board duties. A.R.S. § 32-1207.B.3.

As you have described in your letter of August 1, 1979, the members of the complaint review committee are appointed by the Board to assist in the investigation of charges of misconduct or malpractice by licensed dentists. Thus, members are acting pursuant to statutory authorization.